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APPLICATION NO. 08/840,288	FILING DATE 04/14/97	FIRST NAMED INVENTOR COMPADRE	ATTORNEY DOCKET NO. 025533/102
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IM31/0223

CHIN, F EXAMINER

ART UNIT
1/31

PAPER NUMBER

DATE MAILED: 02/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/840,228

Applicant(s)

Compadre et al

Examiner

Peter Chin

Group Art Unit

1731☒ Responsive to communication(s) filed on Dec 4, 1998☒ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 1-26 and 31-34 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☒ Claim(s) 1-26 and 31-34 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claims _____ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. Claims 1-26 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lattin et al.

The claims are rejected for the reasons given in the previous Office Action, Paper No. 5.

2. The claimed contact time is not unobvious. It is well within the purview of one of ordinary skill, as a matter of normal and routine experimentation, to determine the optimal contact time needed for the QAC to remove/control the bacterial contamination. Whether Mustapha et al or other publications higher contact times for food contact surfaces is not material to the question of unobviousness. Lattin et al discloses contact of QAC with non-poultry meats, Lattin et al is the closest prior art. While there may be differences between food groups e.g. meats fruits, milk etc., the fact is that Lattin et al treats meats. In this regard, non-poultry meats are treated and as noted by Applicant it is routine in the art to perform experiments to confirm whether the results can be extrapolated. Thus, it would have been obvious to treat non-poultry meats with QAC with a reasonable expectation of success.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Chin whose telephone number is (703) 308-2046.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.



PETER CHIN
PRIMARY EXAMINER